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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,126	10/19/2001	Paul Remijan	301499.3000-100	2027
30407	7590	06/07/2004	EXAMINER	
BOWDITCH & DEWEY, LLP 161 WORCESTER ROAD P.O. BOX 9320 FRAMINGHAM, MA 01701-9320			PEFFLEY, MICHAEL F	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/042,126	Applicant(s) REMIJAN ET AL. <i>on</i>	
	Examiner Michael Peffley	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/31/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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Applicant's amendments and comments, received March 31, 2004, have been fully considered by the examiner. The following is a complete response to the March 31, 2004 communication.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9-13 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaleki et al ('341).

As shown in Figure 2A, Chaleki et al disclose an endoscope (66) including a fiber optic waveguide (40) which includes proximal and distal (36) lenses, a handle (68) attached to the endoscope body (66) and an imaging device (70) within the handle and optically coupled to the proximal end of the optical system (i.e. fiber optics and lenses). A removable sheath (300 – Figure 5B) is provided and extends about the endoscope body. The sheath is removably attached to the handle via flange (312) and includes an illumination port (314) which provides illumination fibers through a channel (316). Column 5, lines 1-10 disclose that the endoscope body (66) may have a diameter between 1mm and 20mm. Chaleki et al disclose various lens arrangements for coupling images to the optical fibers, including multiple lenses on the sheath (Figure 5B). The endoscope may also be provided with a working channel (69) for inserting a tool therethrough.

Claim Rejections - 35 USC § 103

Claims 6, 14, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaleki et al ('341) in view of the teaching of Uram ('740).

The Chaleki et al device has been addressed. While Chaleki et al disclose the use of multiple optical fibers located within the endoscope, there is no specific disclosure of using at least 3000 optical fibers.

The examiner maintains that one of ordinary skill in the art would recognize that any number of optical fibers may be provided in such an endoscope. Uram discloses an endoscope having a very small diameter and specifically teaches that 3000 optical fibers may be provided in the device (col. 3, lines 40-45).

To have provided the Chaleki et al endoscope with any reasonable number of imaging fibers would have been an obvious consideration for one of ordinary skill in the art, particularly since Uram teach that up to 3000 optical fibers may be provided in very small diameter endoscopes.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chaleki et al and Uram as applied to claim 6 above, and further in view of the teaching of Hibbard ('278).

The combination of the Uram teaching with the Chaleki et al device has been addressed. Neither of these references specifically teaches the use of an achromatic lens at the distal end of the endoscope device.

Hibbard discloses another endoscope device which includes optical fibers for providing an image. In particular, Hibbard shows a lens arrangement at the distal end

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of the optical waveguide for collecting the image, and specifically teach that the lens may be an achromatic lens (col. 4, lines 30-35).

To have provided the Chaleki et al device, as modified by the teaching of Uram, with an achromatic lens at the distal end of the device for collecting the image and coupling it to the optical waveguide would have been an obvious modification for one of ordinary skill in the art in view of the teaching of Hibbard.

Response to Arguments

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

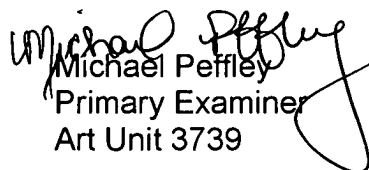
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (703) 308-4305. The examiner can normally be reached on Mon-Fri from 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michael Peffley
Primary Examiner
Art Unit 3739

mp
June 2, 2004